Coram

The Hon'ble Mr.Justice Surjit Singh, Judge.

Whether approved for reporting?

For the Appellant: Mr.D.C. Pathik, Additional Advocate General.

For the Respondent: Mr. Raman Sethi, Advocate.

Surjit Singh, J(Oral).

The State of Himachal Pradesh has filed this appeal against the judgment of the learned trial Magistrate, whereby the respondent Thuru Ram who was sent up for trial for offences under Section 379 of the Indian Penal Code and Sections 41 and 42 of the Indian Forest Act, for allegedly felling 16 khair trees illicitly from a Government Forest in the area of Nurpur Tehsil, has been acquitted.

Grievance of the appellant is that the learned Magistrate has not taken into account very important and material evidence regarding confessional statement made by the respondent and the recovery of 27

Whether reporters of local Papers may be allowed to see the judgment?

having made any confessional statement relating to the felling of trees from the Government forest or Government land, may not be true. While PW-1 Narinder Kumar Dutta says that the statement was made at the residence of the respondent, the other witnesses examined of the prosecution stated that he made the statement at the residence of one Ram Singh, Pradhan of Gram Panchayat Batrahan. The contradiction apart, it is made out from the testimonies of PW-2 Sali Ram, Rakha, and PW-3 Narotam Singh, Forest Guard, that the alleged confessional statement was made by the respondent in the presence of the police. If it is so, the statement is hit by the provisions of Sections 24 and 25 of the Indian Evidence Act and is therefore, not relevant.

As regards the plea that 27 logs were recovered from the cattle shed of the respondent, not only that the evidence of the prosecution is contradictory, but it also appears that there are chances of someone else having kept those logs in the cattle shed, especially when it has come in the evidence of the prosecution itself that the cattle shed is situated at a far off place from the village of respondent and also remains unlocked. Further while according to PW-1 Narinder Kumar Dutta and PW-3 Narotam Singh, Forest Guard, 27 logs were recovered from the cattle

context of recovery of logs from the cattle shed.

As a result of the above stated position, the appeal is dismissed.

January 2, 2006. **(Surjit Singh)**
(PDS) **Judge.**